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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>07 April 2008</u>.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-39</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-39</u> is/are rejected.
7) ☒ Claim(s) <u>19 and 26</u> is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>20080221</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2.   Applicants' response to Office action was received on April 7, 2008.

3.   In response to Applicants' amendment of the claims, several of the claim objections from the previous Office action are hereby withdrawn. However, note that not all of the claim objections have been overcome.

4.   In response to Applicants' amendment of the claims, several of the claim rejections under 35 U.S.C. 112, second paragraph, from the previous Office action are hereby withdrawn. However, some of those rejections remain because the conditional statements at the basis of the rejections remain conditional statements, even though the word "if" was replaced by the word -- when-- in each of those particular claims.

5.   In response to Applicants' amendment of the claims, the rejections of claims 29-30 under 35 U.S.C. 101 from the previous Office action are hereby withdrawn. However, the amendment to claim 31 was not sufficient to overcome the rejection of that claim under 35 U.S.C. 101.

6.   In response to Applicants' amendment of the claims, the corresponding prior art claim rejections have been correspondingly amended below in this Office action.

7.   With respect to the prior art rejections, Applicants first argue that Hoffman et al. teaches billing for computer usage as opposed to execution of a chargeable technology. Examiner responds that the rejection is proper because using the computer in Hoffman et al. IS executing a chargeable technology. One can view the chargeable technology as the actual hardware being

used OR the computing tasks which necessitate the operation of the hardware and thus the charges. Either way, the hardware/tasks represent technologies for which a charge is being billed. Therefore, they are chargeable technologies. Therefore, Applicants' arguments are not persuasive with respect to this issue.

8.   With respect to the prior art rejection of claim 8, Applicants' arguments seem to be based on the previous argument that Hoffman et al. does not relate to execution of a chargeable technology. As was discussed above, Examiner disagrees with Applicants with respect to this issue. Therefore, Examiner maintains that the prior art rejection of claim 8 is proper.

9.   With respect to the prior art rejection of claim 15, Applicants dispute Examiner's "well-known" statement by stating that simply the fact that a user executes a virus cleaner program in response to some recognized problem does not mean that the virus program is necessarily a "chargeable technology." In response, Examiner counterargues that it is not necessary for the purposes of the rejection that a virus cleaner must ALWAYS be a chargeable technology; rather, it is sufficient for the purposes of the rejection that a virus program is sometimes a chargeable technology. In support of Examiner's "well-known" statement, Examiner presents PR Newswire, "Terra Lycos and Network Associates(R) Team Up to Provide Online Security Protection for Consumers," New York, February 4, 2004, p. 1, which demonstrates that some anti-virus software was indeed a chargeable technology. For example, Section A of PR Newswire discusses how the McAfee anti-virus software was being offered on a monthly subscription basis. Therefore, the user would be being charged for ongoing use of the software and such an anti-virus program was an example of a chargeable technology at the time. Therefore, Applicants' arguments are not persuasive with respect to this issue.

10.   If applicant does not seasonably traverse the well known statement during examination,

then the object of the well known statement is taken to be admitted prior art. *In re Chevenard*,

139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03 Reliance on Common Knowledge in

the Art or "Well Known" Prior Art. Therefore, all official notice and "well-known" statements

from the previous Office action which were not adequately traversed in this Office action are

hereby taken to be admitted prior art.

11.   All of Applicants' remaining arguments with respect to the prior art rejections are either

based on the "execution of chargeable technology" issue discussed above or based on

dependency on other claims. Therefore, Examiner has addressed all of Applicants' substantive

arguments.

Claim Objections

12.   Claims 19 and 26 are objected to because of the following informalities:

a. In the fifth line of claim 19, please insert the word --and-- at the end of the line.

b. In the fourth line of claim 26, please replace the semicolon at the end of the line with a

colon.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

13.   Claims 11, 21, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

As per **<u>Claim 11</u>**, the claim contains an action that is to be performed if a particular

condition is present. However, the claim does not also state what action occurs if that particular

condition is not present. This renders the claim to be indefinite. The conditional statement being

referred to here is: "when the client computing system is connected to the network."

As per **<u>Claim 21</u>**, the claim contains an action that is to be performed if a particular

condition is present. However, the claim does not also state what action occurs if that particular

condition is not present. This renders the claim to be indefinite. The conditional statement being

referred to here is: "when the system is connected to the network."

As per **<u>Claim 26</u>**, the claim contains an action that is to be performed if a particular

condition is present. However, the claim does not also state what action occurs if that particular

condition is not present. This renders the claim to be indefinite. The conditional statement being

referred to here is: "when the central location has connectivity to the remote system."

Claim Rejections - 35 USC § 101

14.   Claim 31 is rejected under 35 U.S.C. 101 because the claimed invention is directed to

non-statutory subject matter. A "service" does not fall within at least one of the four categories

of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or

composition of matter).

Claim Rejections - 35 USC § 102

15.   Claims 1, 3, 6, 8-9, 11-13, 23, 25, 32, 35, and 38-39 are rejected under 35 U.S.C. 102(e)

as being anticipated by Hoffman et al., U.S. Patent Application Publication No. US

2005/0137973 A1.

As per **Claims 1 and 8**, Hoffman et al. discloses:

- a method (title of reference);

- charging a first price for a computer system (paragraphs [0040] and [0049]);

- tracking the execution by the computer system of at least one chargeable technology

(paragraphs [0013]-[0014]);

- charging an additional price for each execution of the at least one chargeable technology

by the computer system (paragraphs [0013]-[0014]);

- selecting execution of a chargeable technology on a client computing system

(paragraphs [0013]-[0014]);

- executing said selected chargeable technology (paragraphs [0013]-[0014]);

- collecting data relating to said execution on said client computing system (paragraphs

[0013]-[0014]);

- storing said collected data in a protected storage area on said system (paragraphs

[0013]-[0014]; paragraph [0067]).

As per **Claims 3 and 9**, Hoffman et al. further discloses wherein tracking the execution

of the chargeable technology comprises collecting and storing data regarding said execution, said

data comprising: a date and time of the execution; an identity of the chargeable technology

executed; and unique identifying information associated with the computer system (paragraphs

[0013]-[0014]; p. 5, Table 1).

As per **Claim 6**, Hoffman et al. further discloses wherein said computer system

comprises at least two computer systems delivered by a system provider to at least two users

within a group (paragraph [0071]; "users" indicates multiplicity of customers).

As per **Claim 11**, Hoffman et al. further discloses periodically determining if the client

computing system is connected to a network; gathering said collected data from the protected

storage area and forwarding said collected data to a predetermined central location on the

network when the client computing system is connected to the network (paragraph [0067]).

As per **Claim 12**, Hoffman et al. further discloses wherein the determining, gathering and

forwarding steps are performed without the intervention or knowledge of a user of said system

(paragraph [0067]).

As per **Claim 13**, Hoffman et al. further discloses wherein the selecting execution step

comprises initiation by a user of the system (paragraphs [0013]-[0014]).

As per **Claim 23**, Hoffman et al. discloses:

- a method (title of reference);

- receiving at a central location data representing at least one execution by a remote

system of at least one chargeable technology (paragraphs [0013]-[0014]; paragraph [0067]);

- storing said data in a protected area of said central location (paragraphs [0013]-[0014];

paragraph [0067]).

As per **Claim 25**, Hoffman et al. further discloses wherein said data comprises: a date

and time of the execution; an identity of the chargeable technology executed; and unique

identifying information associated with the remote system (paragraphs [0013]-[0014]; p. 5, Table

1).

As per **Claim 32**, Hoffman et al. discloses:

- a computer system (paragraphs [0013]-[0014]);

- at least one central processing unit (CPU) (paragraphs [0013]-[0014]);

- a memory operatively connected to the CPU (paragraph [0098]);

- a non-volatile storage operatively connected to the CPU and holding at least a primary

operating system for execution on said CPU and effective when executing for controlling the

operation of the system (paragraphs [0013]-[0014]; paragraph [0098]; operable computers have

operating systems);

- a communication interface operatively connected to said CPU for interfacing said

system with a network (paragraphs [0013]-[0014]);

- at least one chargeable technology accessible for execution on said CPU (paragraphs

[0013]-[0014]);

- a chargeable-technology-usage-tracking component accessible for execution on said CPU for tracking the execution by the system of the at least one chargeable technology (paragraphs [0013]-[0014]).

As per **Claim 35**, Hoffman et al. discloses:

- a central-location computer system (paragraphs [0013]-[0014]; paragraph [0067]);

- at least one central processing unit (CPU) (paragraphs [0013]-[0014]; paragraph [0067]; paragraph [0098]);

- a memory operatively connected to the CPU (paragraphs [0013]-[0014]; paragraph [0067]; paragraph [0098]);

- a non-volatile storage operatively connected to the CPU and holding at least a primary operating system for execution on said CPU which is effective when executing for controlling the operation of the system (paragraphs [0013]-[0014]; paragraph [0067]; paragraph [0098]; operable computers have operating systems);

- a communication interface operatively connected to said CPU for interfacing said system with a network (paragraphs [0013]-[0014]);

- a chargeable-technology-data-receiving component for receiving from remote systems data indicative of execution on said remote systems of at least one chargeable technology (paragraphs [0013]-[0014]; paragraph [0067]);

- a technology-usage-data-reporting-and-billing component for periodically sending to the remote systems a usage report detailing the use by the remote systems of the at least one chargeable technology (paragraphs [0013]-[0014]; paragraph [0054]).

As per **Claim 38**, Hoffman et al. further discloses wherein the tracking is performed without the intervention or knowledge of a user of the system (paragraphs [0013]-[0014]; paragraph [0067]; paragraph [0098]).

As per **Claim 39**, Hoffman et al. further discloses wherein the collecting and storing of data is performed without the intervention or knowledge of a user of said system (paragraphs [0013]-[0014]; paragraph [0067]; paragraph [0098]).

Claim Rejections - 35 USC § 103

16.   Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of Dresden, U.S. Patent Application Publication No. US 2005/0021440 A1.

As per **Claim 2**, Hoffman et al. fails to disclose wherein the first price is lower than a break-even price for a provider. Dresden discloses wherein the first price is lower than a break-even price for a provider (paragraph [0009]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that the first price is lower than a break-even price for a provider, as disclosed by Dresden. Motivation is provided by Dresden in that selling below cost may be used to gain market share (paragraph [0009]).

17.   Claims 4, 7, 10, 14, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al.

As per **Claims 4 and 10**, Hoffman et al. fails to disclose encrypting the collected data before storing the collected data. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that it encrypts the collected data before storing the collected data, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that encrypting data helps ensure privacy.

As per **Claim 7**, Hoffman et al. further discloses wherein tracking the execution of the at least one chargeable technology comprises tracking said execution on all systems within the group (paragraphs [0013]-[0014]; paragraph [0071]; "users" indicates multiplicity of customers). Hoffman et al. fails to disclose charging one price to the group for all executions of the at least one chargeable technology by the users within the group. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that it charges one price to the group for all executions of the at least one chargeable technology by the users within the group, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that it is sometimes more convenient to group users under a single bill.

As per **<u>Claim 14</u>**, Hoffman et al. fails to disclose wherein the selecting execution step comprises an automatic selection by the system based on an occurrence of a pre-determined event, without the intervention or knowledge of a user of the system. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that the selecting execution step comprises an automatic selection by the system based on an occurrence of a pre-determined event, without the intervention or knowledge of a user of the system, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that automatic triggering of computer resources when needed is convenient.

As per **<u>Claim 24</u>**, Hoffman et al. fails to disclose decrypting said data prior to storing said data. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that it decrypts said data prior to storing said data, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that it is generally necessary to first decrypt data so that it may be used.

18.   Claims 5 and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hoffman et al. in view of Abrams et al., U.S. Patent Application Publication No. US

2002/0166117 A1.

        As per **Claim 5**, Hoffman et al. further discloses wherein charging an additional price

comprises: gathering the stored data relating to use of a chargeable technology; creating a

technology usage report indicating the use of each chargeable technology; creating an invoice

representing charges for the at least one chargeable technology; sending the report and the

invoice to a user of the computer system (paragraphs [0013]-[0014]; paragraph [0054]).

Hoffman fails to disclose wherein billing is done on a per-use basis. Abrams et al. discloses

wherein billing is done on a per-use basis (paragraph [0138]). It would have been obvious to one

of ordinary skill in the art at the time of applicant's invention to modify the invention of

Hoffman et al. such that billing is done on a per-use basis, as disclosed by Abrams et al.

Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of

applicants' invention that per-use may be a strategically desirable way to bill for a business's

service.

        As per **Claim 26**, Hoffman et al. further discloses periodically determining if the central

location has connectivity to the remote system; when the central location has connectivity to the

remote system; gathering the stored data corresponding to said remote system; creating an

invoice representing charges for said execution of said at least one chargeable technology; and

forwarding said invoice to the remote system (paragraphs [0013]-[0014]; paragraph [0054]).

Hoffman fails to disclose wherein billing is done on a per-use basis. Abrams et al. discloses wherein billing is done on a per-use basis (paragraph [0138]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that billing is done on a per-use basis, as disclosed by Abrams et al. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that per-use may be a strategically desirable way to bill for a business's service.

As per **Claim 27**, Hoffman et al. further discloses wherein said remote system comprises at least two remote systems associated with at least two users within at least one group (paragraph [0071]; "users" indicates multiplicity of customers).

As per **Claim 28**, Hoffman et al. fails to disclose conducting the billing process on a group basis. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 27 such that it conducts the billing process on a group basis, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that it is sometimes more convenient to group users under a single bill.

As per **Claim 29**, Hoffman et al. discloses:

- a method (paragraphs [0013]-[0014]);

- receiving data in a client system relating to execution by a user on said system of at

least one chargeable technology (paragraphs [0013]-[0014]);

- storing said data in a manner retrievable according to user (paragraphs [0013]-[0014];

paragraph [0067]);

- periodically retrieving said data according to user and creating a technology usage

report for each user indicating usage of each chargeable technology by each user (paragraphs

[0013]-[0014]; paragraph [0067]; p. 5, Table 1).

Hoffman fails to disclose wherein billing is done on a per-use basis. Abrams et al.

discloses wherein billing is done on a per-use basis (paragraph [0138]). It would have been

obvious to one of ordinary skill in the art at the time of applicant's invention to modify the

invention of Hoffman et al. such that billing is done on a per-use basis, as disclosed by Abrams

et al. Motivation is provided in that it was well-known to one of ordinary skill in the art at the

time of applicants' invention that per-use may be a strategically desirable way to bill for a

business's service.

Hoffman et al. fails to disclose generating the technology usage report at the server.

However, it was well-known to one of ordinary skill in the art at the time of applicants' invention

that functions in a client/server system can typically be performed at either the client or the

server. It would have been obvious to one of ordinary skill in the art at the time of applicant's

invention to modify the invention of Hoffman et al. as modified above in this rejection such that

it generates the technology usage report at the server; in doing so, it would be performing the

function at the server, as was well-known to one of ordinary skill in the art at the time of

applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that a server may have more processing power than a client.

As per **Claim 30**, Hoffman et al. further discloses configuring the client system with at least one chargeable technology; and configuring the client system with a capability to track and report data relating to the execution by a user of the system of the at least one chargeable technology (paragraphs [0013]-[0014]).

As per **Claim 31**, Hoffman et al. fails to disclose wherein an invoice representing charges is generated at the client. However, it was well-known to one of ordinary skill in the art at the time of applicants' invention that functions in a client/server system can typically be performed at either the client or the server. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified above in this rejection such that an invoice representing charges is generated at the client; in doing so, it would be performing the function at the client, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that performing functions at a client may help relieve processing burden on a server.

19.   Claims 15-18 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in view of PR Newswire, "Terra Lycos and Network Associates(R) Team Up to Provide Online Security Protection for Consumers," New York, February 4, 2004, p. 1.

As per **Claim 15**, Hoffman et al. discloses:

- a method (title of reference);

- selecting execution of a chargeable technology on said system (paragraphs [0013]-[0014]);

- executing said selected chargeable technology (paragraphs [0013]-[0014]);

- collecting data relating to said execution on said computer system (paragraphs [0013]-[0014]);

- storing said collected data in a protected storage area on said system (paragraphs [0013]-[0014]; paragraph [0067]).

Hoffman et al. fails to disclose recognizing in a computer system an event indicating a need for execution by the computer system of at least one chargeable technology. However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention (this is typical when a user of a home computer initiates a virus cleaner program). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. such that a user recognizes in a computer system an event indicating a need for execution by the computer system of at least one chargeable technology, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that it is sometimes necessary to notice computer problems in order to correct them.

RESPONSE TO OFFICIAL NOTICE CHALLENGE: With respect to the prior art

rejection of claim 15, Applicants dispute Examiner's "well-known" statement by stating that

simply the fact that a user executes a virus cleaner program in response to some recognized

problem does not mean that the virus program is necessarily a "chargeable technology." In

response, Examiner counterargues that it is not necessary for the purposes of the rejection that a

virus cleaner must ALWAYS be a chargeable technology; rather, it is sufficient for the purposes

of the rejection that a virus program is sometimes a chargeable technology. In support of

Examiner's "well-known" statement, Examiner presents PR Newswire, "Terra Lycos and

Network Associates(R) Team Up to Provide Online Security Protection for Consumers," New

York, February 4, 2004, p. 1, which demonstrates that some anti-virus software was indeed a

chargeable technology. For example, Section A of PR Newswire discusses how the McAfee

anti-virus software was being offered on a monthly subscription basis. Therefore, the user would

be being charged for ongoing use of the software and such an anti-virus program was an example

of a chargeable technology at the time. Therefore, Applicants' arguments are not persuasive with

respect to this issue.

        As per **Claim 16**, Hoffman et al. fails to disclose wherein the selecting execution step

comprises a selection by a user of the system of a chargeable technology to execute from a menu

or list of available chargeable technologies presented to said user. However, that

element/limitation was well-known to one of ordinary skill in the art at the time of applicants'

invention. It would have been obvious to one of ordinary skill in the art at the time of applicant's

invention to modify the invention of Hoffman et al. as modified in the rejection for claim 15 such

that the selecting execution step comprises a selection by a user of the system of a chargeable

technology to execute from a menu or list of available chargeable technologies presented to said

user, as was well-known to one of ordinary skill in the art at the time of applicants' invention.

Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of

applicants' invention that menus are a convenient way for a user to interface with a computer

system.

As per **<u>Claim 17</u>**, Hoffman et al. fails to disclose wherein the selecting execution step

comprises an automatic selection by the system of a chargeable technology to execute based on

the type of the event. However, that element/limitation was well-known to one of ordinary skill

in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill

in the art at the time of applicant's invention to modify the invention of Hoffman et al. as

modified in the rejection for claim 15 such that the selecting execution step comprises an

automatic selection by the system of a chargeable technology to execute based on the type of the

event, as was well-known to one of ordinary skill in the art at the time of applicants' invention.

Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of

applicants' invention that automated troubleshooters are convenient for users who may not be

able to correct a problem on their own.

As per **<u>Claim 18</u>**, Hoffman et al. fails to disclose encrypting and digitally signing the data

prior to storing the data. However, that element/limitation was well-known to one of ordinary

skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary

skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as

modified in the rejection for claim 15 such that it encrypts and digitally signs the data prior to

storing the data, as was well-known to one of ordinary skill in the art at the time of applicants'

invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at

the time of applicants' invention that encrypting and digitally signing data helps ensure privacy.

As per **Claim 21**, Hoffman et al. further discloses periodically determining if the system

is connected to a network; when the system is connected to the network, gathering said stored

data and forwarding said data to a predetermined central location on the network (paragraph

[0067]).

As per **Claim 22**, Hoffman et al. further discloses wherein the entire said process is

performed without the intervention or knowledge of a user of the system (paragraph [0067]).

20.   Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et

al. in view of PR Newswire in further view of Hensley, U.S. Patent Application Publication No.

US 2004/0133790 A1.

As per **Claim 19**, Hoffman et al. fails to disclose entering an alternate operating mode of

the system by initiating execution of an alternate operating system; performing functions under

control of the alternate operating system; returning control of the system to a primary operating

system for normal operation. Hensley discloses entering an alternate operating mode of the

system by initiating execution of an alternate operating system; performing functions under

control of the alternate operating system; returning control of the system to a primary operating system for normal operation (abstract; paragraphs [0001]-[0010]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 15 such that it enters an alternate operating mode of the system by initiating execution of an alternate operating system; performs functions under control of the alternate operating system; and returns control of the system to a primary operating system for normal operation, as disclosed by Hensley. Motivation is provided by Hensley in that such actions may help to recover a computer system with system problems (abstract; paragraphs [0001]-[0010]).

As per **Claim 20**, Hoffman et al. fails to disclose wherein said alternate operating system is provided on the system in a manner which is hidden from a user of the system and protected from tampering. Hensley further discloses wherein said alternate operating system is provided on the system in a manner which is hidden from a user of the system and protected from tampering (abstract; paragraphs [0001]-[0010]). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the rejection for claim 19 such that said alternate operating system is provided on the system in a manner which is hidden from a user of the system and protected from tampering, as disclosed by Hensley. Motivation is provided by Hensley in that such an alternate operating system can be useful in helping to recover a computer system from a virus attack (abstract; paragraphs [0001]-[0010]).

21.   Claims 33-34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hoffman et al. in view of Hensley, U.S. Patent Application Publication No. US 2004/0133790

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        As per **Claim 33**, Hoffman et al. fails to disclose an alternate operating system in a

protected and hidden area of said non-volatile storage and wherein said alternate operating

system executes on said CPU to perform functions. Hensley discloses an alternate operating

system in a protected and hidden area of said non-volatile storage and wherein said alternate

operating system executes on said CPU to perform functions (abstract; paragraphs [0001]-

[0010]). It would have been obvious to one of ordinary skill in the art at the time of applicant's

invention to modify the invention of Hoffman et al. such that it includes an alternate operating

system in a protected and hidden area of said non-volatile storage and said alternate operating

system executes on said CPU to perform functions, as disclosed by Hensley. Motivation is

provided by Hensley in that such a configuration may help to recover a computer system with

system problems (abstract; paragraphs [0001]-[0010]).

        As per **Claim 34**, Hoffman et al. further discloses storing data relating to the execution

by the system of said at least one chargeable technology (paragraphs [0013]-[0014]; paragraph

[0067]). Hoffman et al. fails to disclose a secure, hidden area of said non-volatile storage.

Hensley discloses a secure, hidden area of said non-volatile storage (abstract; paragraphs [0001]-

[0010]). It would have been obvious to one of ordinary skill in the art at the time of applicant's

invention to modify the invention of Hoffman et al. such that it includes a secure, hidden area of

said non-volatile storage, as disclosed by Hensley. Motivation is provided by Hensley in that

such an area can help safeguard data from computer viruses (abstract; paragraphs [0001]-

[0010]).

As per **Claim 36**, Hoffman et al. further discloses storing the data received from the

remote systems (paragraphs [0013]-[0014]; paragraph [0098]). Hoffman et al. fails to disclose a

secure, hidden area of said non-volatile storage for use. Hensley discloses a secure, hidden area

of said non-volatile storage for use (abstract; paragraphs [0001]-[0010]). It would have been

obvious to one of ordinary skill in the art at the time of applicant's invention to modify the

invention of Hoffman et al. such that it includes a secure, hidden area of said non-volatile storage

for use, as disclosed by Hensley. Motivation is provided by Hensley in that such an area can

help safeguard data from computer viruses (abstract; paragraphs [0001]-[0010]).

22.   Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. in

view of Hensley in further view of Abrams et al.

As per **Claim 37**, Hoffman et al. further discloses wherein said usage report comprises an

invoice representing charges for the executions by the remote systems of the at least one

chargeable technology (paragraphs [0013]-[0014]; paragraph [0054]). Hoffman fails to disclose

wherein billing is done on a per-use basis. Abrams et al. discloses wherein billing is done on a

per-use basis (paragraph [0138]). It would have been obvious to one of ordinary skill in the art

at the time of applicant's invention to modify the invention of Hoffman et al. as modified in the

rejection for claim 36 such that billing is done on a per-use basis, as disclosed by Abrams et al.

Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that per-use may be a strategically desirable way to bill for a business's service.

Conclusion

23.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

24.   **Examiner's Note:** Examiner has cited particular portions of the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

25.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Nathan Erb whose telephone number is (571) 272-7606. The

examiner can normally be reached on Mondays through Fridays, 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan Erb
Examiner
Art Unit 3628

Nhe

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628